

UNITED STATES BANKRUPTCY COURT

FOR THE

**EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In the Matter of:

SUBROTO MITRO
AND
MAITREYEE MITRO

Debtors

Chapter 13

Case No. 14-13184-BFK

OBJECTION TO CONFIRMATION OF PLAN,
NOTICE OF OBJECTION TO CONFIRMATION OF PLAN
AND
NOTICE OF SCHEDULED HEARING ON THIS OBJECTION

Thomas P. Gorman, Chapter 13 Trustee, has filed this objection to confirmation of your Chapter 13 Plan filed September 23, 2014. The cause for this objection is as follows:

Violation of 11 U.S.C. §1322(b)(2) – Impermissible Cramdown of Secured Claim

Debtors are proposing to impermissibly cram down a Pentagon Federal Credit Union lien secured by the Debtors' principal residence in their proposed Plan.

Violation of 11 U.S.C. §1325(a)(6) – Feasibility

It is unclear exactly which Navy Federal Credit Union claim is being avoided as a lien on Debtors' property. There are several NFCU claims, including two Debtors listed at \$0.00 for which claims have been filed totalling nearly \$56,000.00. It is also unclear how any lien can be stripped since Schedule A shows equity in the real estate, and Zillow suggests a higher value than Debtors have ascribed to the property.

Debtors were unable to maintain payments in their prior Chapter 13 case (Case No. 13-10199-RGM), which was dismissed after Trustee's Motion to Dismiss for payment default was continued five times and the Court denied Debtors' final request for a continuance given that Debtors had not made any progress toward curing their Plan arrearage. Nonetheless, Debtors filed a Motion to Vacate Dismissal, which was also denied.

Notice of Objection To Confirmation

Subroto Mitro and Maitreyee Mitro, Case # 14-13184-BFK

Debtors' step payment from \$100.00/mo. to \$2,618.00/mo. in month 2 of the Plan is unrealistic, especially in light of their inability to maintain their Plan payments in their prior case of \$2,266.95/mo.

Debtors also testified at their September 30, 2014, Meeting of Creditors in this case that they were completely unaware of any Plan payment defaults in their previous case prior to receiving the Order of Dismissal, and that their counsel never informed them of any payment problem. This testimony seems unbelievable and does not speak well to the likelihood of Debtors making their Plan payments going forward in their present case. In that regard, Trustee notes that Debtors have not yet made their first Plan payment in this case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not wish the court to grant the relief sought in the objection, or if you want the court to consider your views on the objection, then on or before five business days prior to the hearing date, you or your attorney must:

File with the court a written response with supporting memorandum as required by Local Bankruptcy Rule 9013-1(H). Unless a written response and supporting memorandum are filed and served by the date specified, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing. If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above. You must mail a copy to the persons listed below.

Attend the hearing to be held on October 30, 2014 at 1:30 p.m. in Courtroom #3 on the 3rd floor, United States Bankruptcy Court, 200 South Washington Street, Alexandria, Virginia 22314. If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.

A copy of any written response must be mailed to the following persons:

Thomas P. Gorman
300 North Washington Street, Ste, 400
Alexandria, VA 22314

Clerk of the Court
United States Bankruptcy Court
200 South Washington Street
Alexandria, VA 22314

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If you or your attorney do not take steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: October 3, 2014

/s/ Thomas P. Gorman
Thomas P. Gorman
Chapter 13 Trustee
300 N. Washington Street, #400
Alexandria, VA 22314
(703) 836-2226
VSB 26421

CERTIFICATE OF SERVICE

I hereby certify that I have this 3th day of October, 2014, served via ECF authorized users or mailed a true copy of the foregoing Objection to Confirmation, Notice of Objection and Notice of Hearing to the following parties.

Subroto Mitro
Maitreyee Mitro
Chapter 13 Debtors
13563 Melville Lane
Chantilly, VA 20151

Tommy Andrews, Jr., Esq.
Attorney for Debtor
122 N. Alfred St.
Alexandria, VA 22314

/s/ Thomas P. Gorman
Thomas P. Gorman